



## SENATE BILL 391

1           **SECTION 515.** 880.38 (1) of the statutes is repealed.

2           **SECTION 516.** 880.38 (2) of the statutes is renumbered 54.25 (1) (b) (intro.) and  
3 amended to read:

4           54.25 (1) (b) (intro.) ~~A guardian of the person shall endeavor~~ Endeavor to  
5 secure any necessary care, or services ~~or appropriate protective placement on behalf~~  
6 ~~of for the ward. that are in the ward's best interests, based on all of the following:~~

7           **SECTION 517.** 880.38 (3) of the statutes is renumbered 54.25 (1) (a) and  
8 amended to read:

9           54.25 (1) (a) ~~A guardian of the person of an incompetent appointed under s.~~  
10 ~~880.33 shall make~~ Make an annual report on the condition of the ward to the court  
11 that ordered the guardianship and to the county department designated under s.  
12 55.02. That county department shall develop reporting requirements for the  
13 guardian of the person. The report shall include, ~~but not be limited to,~~ the location  
14 of the ward, the health condition of the ward, any recommendations regarding the  
15 ward, and a statement of as to whether or not the ward is living in the least restrictive  
16 environment consistent with the needs of the ward. ~~The guardian may fulfill the~~  
17 ~~requirement under this subsection by submitting the report required under s. 55.06~~  
18 ~~(10).~~

19           **SECTION 518.** 880.39 (title) of the statutes is repealed.

20           **SECTION 519.** 880.39 of the statutes is renumbered 54.18 (4) and amended to  
21 read:

22           54.18 (4) ~~Any~~ A guardian of the person or of the estate is immune from civil  
23 liability for his or her acts or omissions in performing the duties of the guardianship  
24 if he or she performs the duties in good faith, in the best interests of the ward, and

## SENATE BILL 391

## SECTION 519

1 with the degree of diligence and prudence that an ordinarily prudent person  
2 exercises in his or her own affairs.

3 **SECTION 520.** Subchapter II (title) of chapter 880 [precedes 880.60] of the  
4 statutes is repealed. *as affected by 2005 Wisconsin Act 22,*

5 **SECTION 521.** 880.60 of the statutes is renumbered 54.852, and 54.852 (1) (d)  
6 and (g), ~~(10) (a)~~ and (12), as renumbered, are amended to read:

7 54.852 (1) (d) "Guardian" Notwithstanding s. 54.01 (10), "guardian" means any  
8 fiduciary for the person or estate of a ward.

9 (g) "Ward" Notwithstanding s. 54.01 (37), "ward" means ~~a beneficiary of an~~  
10 individual who receives benefits from the U.S. department of veterans affairs.

11 *54.852* (10) (a) Every guardian shall file his or her accounts as required by this chapter  
12 and shall be excused from filing accounts in the case as provided by s. 880.25 ~~(3)~~ 54.66  
13 (2).

14 **(12) COMPENSATION OF GUARDIANS.** Guardians shall be compensated as provided  
15 in s. 880.24 (1) 54.72.

16 **SECTION 522.** Subchapter III (title) of chapter 880 [precedes 880.61] of the  
17 statutes is repealed.

18 **SECTION 523.** 880.61 of the statutes is renumbered 54.854, and 54.854 (intro.),  
19 (3) to (6), (10), (11), (13) and (14), as renumbered, are amended to read:

20 **54.854 (title) Definitions Uniform transfers to minors act; definitions.**  
21 (intro.) In ss. 880.61 ~~to 880.72~~ 54.854 to 54.898:

22 **(3) "Conservator"** Notwithstanding s. 54.01 (3), "conservator" means a person  
23 appointed or qualified by a court to act as general, limited or temporary guardian of  
24 a minor's property or a person legally authorized to perform substantially the same  
25 functions.

## SENATE BILL 391

1           (4) “~~Court~~” Notwithstanding s. 54.01 (4), “court” means the circuit court.

2           (5) “Custodial property” means any interest in property transferred to a  
3           custodian under ss. ~~880.61 to 880.72~~ 54.854 to 54.898 and the income from and  
4           proceeds of that interest in property.

5           (6) “Custodian” means a person so designated under s. ~~880.65~~ 54.870 or a  
6           successor or substitute custodian designated under s. ~~880.695~~ 54.888.

7           (10) “~~Minor~~” Notwithstanding s. 54.01 (20), “minor” means an individual who  
8           has not attained the age of 21 years.

9           (11) “~~Personal representative~~” Notwithstanding s. 54.01 (23), “personal  
10          representative” means an executor, administrator, successor personal  
11          representative or special administrator of a decedent’s estate or a person legally  
12          authorized to perform substantially the same functions.

13          (13) “Transfer” means a transaction that creates custodial property under s.  
14          ~~880.65~~ 54.870.

15          (14) “Transferor” means a person who makes a transfer under ss. ~~880.61 to~~  
16          ~~880.72~~ 54.854 to 54.898.

17          **SECTION 524.** 880.615 of the statutes is renumbered 54.856, and 54.856 (1) and  
18          (2), as renumbered, are amended to read:

19          54.856 (1) Sections ~~880.61 to 880.72~~ 54.854 to 54.898 apply to a transfer that  
20          refers to ss. ~~880.61 to 880.72~~ 54.854 to 54.898 in the designation under s. ~~880.65~~  
21          54.870 (1) by which the transfer is made if at the time of the transfer the transferor,  
22          the minor or the custodian is a resident of this state or the custodial property is  
23          located in this state. The custodianship so created remains subject to ss. ~~880.61 to~~  
24          ~~880.72~~ 54.854 to 54.898 despite a subsequent change in residence of a transferor, the  
25          minor or the custodian, or the removal of custodial property from this state.

## SENATE BILL 391

## SECTION 524

1           (2) A person designated as custodian under s. ~~880.65 to 880.695~~ 54.870 to  
2           54.888 is subject to personal jurisdiction in this state with respect to any matter  
3 relating to the custodianship.

4           **SECTION 525.** 880.62 of the statutes is renumbered 54.858, and 54.858 (2) and  
5 (3), as renumbered, are amended to read:

6           54.858 (2) A custodian nominated under this section must be a person to whom  
7 a transfer of property of that kind may be made under s. ~~880.65~~ 54.870 (1).

8           (3) The nomination of a custodian under this section does not create custodial  
9 property until the nominating instrument becomes irrevocable or a transfer to the  
10 nominated custodian is completed under s. ~~880.65~~ 54.870. Unless the nomination  
11 of a custodian has been revoked, upon the occurrence of the future event the  
12 custodianship becomes effective and the custodian shall enforce a transfer of the  
13 custodial property under s. ~~880.65~~ 54.870.

14           **SECTION 526.** 880.625 of the statutes is renumbered 54.860 and amended to  
15 read:

16           **54.860 Transfer by gift or exercise of power of appointment.** A person  
17 may make a transfer by irrevocable gift to, or the irrevocable exercise of a power of  
18 appointment in favor of, a custodian for the benefit of a minor under s. ~~880.65~~ 54.870.

19           **SECTION 527.** 880.63 of the statutes is renumbered 54.862 and amended to  
20 read:

21           **54.862 Transfer authorized by will or trust.** (1) A personal representative  
22 or trustee may make an irrevocable transfer under s. ~~880.65~~ 54.870 to a custodian  
23 for the benefit of a minor as authorized in the governing will or trust.

24           (2) If the testator or settlor has nominated a custodian under s. ~~880.62~~ 54.858  
25 to receive the custodial property, the transfer must be made to that person.

## SENATE BILL 391

1           (3) If the testator or settlor has not nominated a custodian under s. 880.62  
2     54.858, or all persons so nominated as custodian die before the transfer or are unable,  
3     decline or are ineligible to serve, the personal representative or the trustee, as the  
4     case may be, shall designate the custodian from among those eligible to serve as  
5     custodian for property of that kind under s. ~~880.65~~ 54.870 (1).

6           **SECTION 528.** 880.635 of the statutes is renumbered 54.864, and 54.864 (1) and  
7     (2), as renumbered, are amended to read:

8           54.864 (1) Subject to sub. (3), a personal representative or trustee may make  
9     an irrevocable transfer to another adult or trust company as custodian for the benefit  
10    of a minor under s. ~~880.65~~ 54.870 in the absence of a will or under a will or trust that  
11    does not contain an authorization to do so.

12          (2) Subject to sub. (3), a conservator may make an irrevocable transfer to  
13    another adult or trust company as custodian for the benefit of the minor under s.  
14    ~~880.65~~ 54.870.

15          **SECTION 529.** 880.64 of the statutes is renumbered 54.866 and amended to  
16    read:

17          **54.866 Transfer by obligor.** (1) Subject to subs. (2) and (3), a person not  
18    subject to s. ~~880.63 or 880.635~~ 54.862 or 54.864 who holds property of or owes a  
19    liquidated debt to a minor not having a conservator may make an irrevocable  
20    transfer to a custodian for the benefit of the minor under s. ~~880.65~~ 54.870.

21          (2) If a person having the right to do so under s. 880.62 54.858 has nominated  
22    a custodian under that section to receive the custodial property, the transfer must  
23    be made to that person.

24          (3) If no custodian has been nominated under s. 880.62 54.858, or all persons  
25    so nominated as custodian die before the transfer or are unable, decline or are

## SENATE BILL 391

## SECTION 529

ineligible to serve, a transfer under this section may be made to an adult member of the minor's family or to a trust company unless the property exceeds \$10,000 in value.

**SECTION 530.** 880.645 of the statutes is renumbered 54.868 and amended to read:

**54.868 Receipt for custodial property.** A written acknowledgment of delivery by a custodian constitutes a sufficient receipt and discharge for custodial property transferred to the custodian under ss. ~~880.61 to 880.72~~ 54.854 to 54.898.

**SECTION 531.** 880.65 of the statutes is renumbered 54.870.

**SECTION 532.** 880.655 of the statutes is renumbered 54.872 and amended to read:

**54.872 Single custodianship.** A transfer may be made only for one minor, and only one person may be the custodian. All custodial property held under ss. ~~880.61 to 880.72~~ 54.854 to 54.898 by the same custodian for the benefit of the same minor constitutes a single custodianship.

**SECTION 533.** 880.66 of the statutes is renumbered 54.874 and amended to read:

**54.874 Validity and effect of transfer.** (1) The validity of a transfer made in a manner prescribed in ss. ~~880.61 to 880.72~~ 54.854 to 54.898 is not affected by:

(a) Failure of the transferor to comply with s. ~~880.65~~ 54.870 (3) concerning possession and control;

(b) Designation of an ineligible custodian, except designation of the transferor in the case of property for which the transferor is ineligible to serve as custodian under s. ~~880.65~~ 54.870 (1); or

## SENATE BILL 391

1 (c) Death or incapacity of a person nominated under s. ~~880.62~~ 54.858 or  
2 designated under s. ~~880.65~~ 54.870 as custodian or the disclaimer of the office by that  
3 person.

4 (2) A transfer made under s. ~~880.65~~ 54.870 is irrevocable, and the custodial  
5 property is indefeasibly vested in the minor, but the custodian has all the rights,  
6 powers, duties and authority provided in ss. ~~880.61 to 880.72~~ 54.854 to 54.898, and  
7 neither the minor nor the minor's legal representative has any right, power, duty or  
8 authority with respect to the custodial property except as provided in ss. ~~880.61 to~~  
9 ~~880.72~~ 54.854 to 54.898.

10 (3) By making a transfer, the transferor incorporates in the disposition all of  
11 the provisions of ss. ~~880.61 to 880.72~~ 54.854 to 54.898 and grants to the custodian,  
12 and to any 3rd person dealing with a person designated as custodian, the respective  
13 powers, rights and immunities provided in ss. ~~880.61 to 880.72~~ 54.854 to 54.898.

14 **SECTION 534.** 880.665 of the statutes is renumbered 54.876.

15 **SECTION 535.** 880.67 of the statutes is renumbered 54.878, and 54.878 (2), as  
16 renumbered, is amended to read:

17 54.878 (2) This section does not relieve a custodian from liability for breach of  
18 s. ~~880.665~~ 54.876.

19 **SECTION 536.** 880.675 of the statutes is renumbered 54.880.

20 **SECTION 537.** 880.68 of the statutes is renumbered 54.882, and 54.882 (2) and  
21 (3), as renumbered, are amended to read:

22 54.882 (2) Except for a person who is a transferor under s. ~~880.625~~ 54.860, a  
23 custodian has a noncumulative election during each calendar year to charge  
24 reasonable compensation for services performed during that year.

25 (3) Except as provided in s. ~~880.695~~ 54.888 (6), a custodian need not give a bond.

**SENATE BILL 391****SECTION 538**

1           **SECTION 538.** 880.685 of the statutes is renumbered 54.884, and 54.884 (2) and  
2           (3), as renumbered, are amended to read:

3           54.884 (2) The propriety of, or the authority under ss. ~~880.61 to 880.72~~ 54.854  
4           to 54.898 for, any act of the purported custodian.

5           (3) The validity or propriety under ss. ~~880.61 to 880.72~~ 54.854 to 54.898 of any  
6           instrument or instructions executed or given either by the person purporting to make  
7           a transfer or by the purported custodian.

8           **SECTION 539.** 880.69 of the statutes is renumbered 54.886.

9           **SECTION 540.** 880.695 of the statutes is renumbered 54.888, and 54.888 (1), (2)  
10          and (6), as renumbered are amended to read:

11          54.888 (1) A person nominated under s. ~~880.62~~ 54.858 or designated under s.  
12          ~~880.65~~ 54.870 as custodian may decline to serve by delivering a valid disclaimer  
13          under s. 854.13 to the person who made the nomination or to the transferor or the  
14          transferor's legal representative. If the event giving rise to a transfer has not  
15          occurred and no substitute custodian able, willing and eligible to serve was  
16          nominated under s. ~~880.62~~ 54.858, the person who made the nomination may  
17          nominate a substitute custodian under s. ~~880.62~~ 54.858; otherwise the transferor or  
18          the transferor's legal representative shall designate a substitute custodian at the  
19          time of the transfer, in either case from among the persons eligible to serve as  
20          custodian for that kind of property under s. ~~880.65~~ 54.870 (1). The custodian so  
21          designated has the rights of a successor custodian.

22          (2) A custodian at any time may designate a trust company or an adult other  
23          than a transferor under s. ~~880.625~~ 54.860 as successor custodian by executing and  
24          dating an instrument of designation before a subscribing witness other than the  
25          successor. If the instrument of designation does not contain or is not accompanied



**SENATE BILL 391**

1 by the resignation of the custodian, the designation of the successor does not take  
2 effect until the custodian resigns, dies, becomes incapacitated or is removed.

3 (6) A transferor, the legal representative of a transferor, an adult member of  
4 the minor's family, a guardian of the person of the minor, the conservator of the minor  
5 or the minor if the minor has attained the age of 14 years may petition the court to  
6 remove the custodian for cause and to designate a successor custodian other than a  
7 transferor under s. ~~880.625~~ 54.860 or to require the custodian to give appropriate  
8 bond.

9 **SECTION 541.** 880.70 of the statutes is renumbered 54.890, and 54.890 (1) (b),  
10 (3) and (4), as renumbered, are amended to read:

11 54.890 (1) (b) For a determination of responsibility, as between the custodial  
12 property and the custodian personally, for claims against the custodial property  
13 unless the responsibility has been adjudicated in an action under s. ~~880.69~~ 54.886  
14 to which the minor or the minor's legal representative was a party.

15 (3) The court, in a proceeding under ss. ~~880.61 to 880.72~~ 54.854 to 54.898 or  
16 in any other proceeding, may require or permit the custodian or the custodian's legal  
17 representative to account.

18 (4) If a custodian is removed under s. ~~880.695~~ 54.888 (6), the court shall require  
19 an accounting and order delivery of the custodial property and records to the  
20 successor custodian and the execution of all instruments required for transfer of the  
21 custodial property.

22 **SECTION 542.** 880.705 of the statutes is renumbered 54.892, and 54.892 (1) and  
23 (2), as renumbered, are amended to read:

24 54.892 (1) The minor's attainment of 21 years of age with respect to custodial  
25 property transferred under s. ~~880.625 or 880.63~~ 54.860 or 54.862;

## SENATE BILL 391

## SECTION 542

1           (2) The minor's attainment of 18 years of age with respect to custodial property  
2 transferred under s. ~~880.635 or 880.64~~ 54.864 or 54.866; or

3           **SECTION 543.** 880.71 of the statutes is renumbered 54.894, and 54.894 (intro.)  
4 and (2), as renumbered, are amended to read:

5           **54.894 Applicability.** (intro.) Sections ~~880.61 to 880.72~~ 54.854 to 54.898  
6 apply to a transfer within the scope of s. ~~880.615~~ 54.856 made after April 8, 1988, if:

7           (2) The instrument by which the transfer purports to have been made uses in  
8 substance the designation "as custodian under the Uniform Gifts to Minors Act" or  
9 "as custodian under the Uniform Transfers to Minors Act" of any other state, and the  
10 application of ss. ~~880.61 to 880.72~~ 54.854 to 54.898 is necessary to validate the  
11 transfer.

12           **SECTION 544.** 880.715 of the statutes is renumbered 54.896 and amended to  
13 read:

14           **54.896 Effect on existing custodianships.** (1) Any transfer of custodial  
15 property as defined in ss. ~~880.61 to 880.72~~ 54.854 to 54.898 made before April 8, 1988,  
16 is validated notwithstanding that there was no specific authority in ss. 880.61 to  
17 880.71, 1985 stats., for the coverage of custodial property of that kind or for a transfer  
18 from that source at the time the transfer was made.

19           (2) Sections ~~880.61 to 880.72~~ 54.854 to 54.898 apply to all transfers made before  
20 April 8, 1988, in a manner and form prescribed in ss. 880.61 to 880.71, 1985 stats.,  
21 except insofar as the application impairs constitutionally vested rights or extends  
22 the duration of custodianships in existence on April 8, 1988.

23           (3) Sections ~~880.61 to 880.705~~ 54.854 to 54.892 with respect to the age of a  
24 minor for whom custodial property is held under ss. ~~880.61 to 880.72~~ 54.854 to 54.898  
25 do not apply to custodial property held in a custodianship that terminated because

## SENATE BILL 391

1 of the minor's attainment of the age of 18 after March 23, 1972 and before April 8,  
2 1988.

3 (4) To the extent that ss. ~~880.61 to 880.72~~ 54.854 to 54.898, by virtue of sub.  
4 (2), do not apply to transfers made in a manner prescribed in ss. 880.61 to 880.71,  
5 1985 stats., or to the powers, duties and immunities conferred by transfers in that  
6 manner upon custodians and persons dealing with custodians, the repeal of ss.  
7 880.61 to 880.71, 1985 stats., does not affect those transfers, powers, duties and  
8 immunities.

9 **SECTION 545.** 880.72 of the statutes is renumbered 54.898 and amended to  
10 read:

11 **54.898 Uniformity of application and construction.** Sections 880.61 to  
12 ~~880.72~~ 54.854 to 54.898 shall be applied and construed to effectuate their general  
13 purpose to make uniform the law with respect to the subject of ss. ~~880.61 to 880.72~~  
14 54.854 to 54.898 among states enacting it.

15 **SECTION 546.** Subchapter IV (title) of chapter 880 [precedes 880.75] of the  
16 statutes is repealed.

17 **SECTION 547.** 880.75 of the statutes is renumbered 54.92.

18 **SECTION 548.** 880.76 of the statutes is renumbered 54.93, and 54.93 (1), (2) and  
19 (3), as renumbered, are amended to read:

20 54.93 (1) DEFINITIONS. All definitions in s. ~~880.75~~ 54.92 (1) (a) to (e) and (g) shall  
21 apply in this section, unless the context otherwise requires. "Third party" is a person  
22 other than a bank, broker, transfer agent or issuer who with respect to a security held  
23 by an incompetent or spendthrift effects a transaction otherwise than directly with  
24 the incompetent or spendthrift.

(a)

(b) In this section,  
"3rd"

## SENATE BILL 391

## SECTION 548

1           (2) SECURITY TRANSACTIONS INVOLVING INCOMPETENT OR SPENDTHRIFT; LIABILITY.

2       A bank, broker, issuer, ~~third~~ 3rd party, or transfer agent incurs no liability by reason  
3       of his or her treating an incompetent or spendthrift as having capacity to transfer  
4       a security, to receive or to empower others to receive dividends, interest, principal,  
5       or other payments or distributions, to vote or give consent in person or by proxy, or  
6       to make elections or exercise rights relating to the security, unless prior to acting in  
7       the transaction the bank, broker, issuer, ~~third~~ 3rd party, or transfer agent had  
8       received written notice in the office acting in the transaction that the specific security  
9       is held by a person who has been adjudicated an incompetent or a spendthrift or  
10      unless an individual conducting the transaction for the bank, broker, issuer, ~~third~~  
11      3rd party, or transfer agent had actual knowledge that the holder of the security is  
12      a person who has been adjudicated an incompetent or a spendthrift, or actual  
13      knowledge of filing of lis pendens as provided in s. ~~880.215~~ 54.47. Except as  
14      otherwise provided in this section, such a bank, broker, issuer, ~~third~~ 3rd party, or  
15      transfer agent may assume without inquiry that the holder of a security is not an  
16      incompetent or spendthrift.

17           (3) ACTS NOT SUBJECT TO DISAFFIRMANCE OR AVOIDANCE. An incompetent or  
18      spendthrift, who has transferred a security, received or empowered others to receive  
19      dividends, interest, principal, or other payments or distributions, voted or given  
20      consent in person or by proxy, or made an election or exercised rights relating to the  
21      security, has no right thereafter, as against a bank, broker, issuer, ~~third~~ 3rd party,  
22      or transfer agent to disaffirm or avoid the transaction, unless prior to acting in the  
23      transaction the bank, broker, issuer, ~~third~~ 3rd party, or transfer agent against whom  
24      the transaction is sought to be disaffirmed or avoided had received notice in the office  
25      acting in the transaction that the specific security is held by a person who has been

## SENATE BILL 391

1 adjudicated an incompetent or a spendthrift or unless an individual conducting the  
2 transaction for the bank, broker, issuer, ~~third~~ 3rd party, or transfer agent had actual  
3 knowledge that the holder is a person who has been adjudicated an incompetent or  
4 a spendthrift, or actual knowledge of filing of lis pendens as provided in s. 880.215  
5 54.47.

6 **SECTION 549.** Subchapter V (title) of chapter 880 [precedes 880.81] of the  
7 statutes is repealed.

8 **SECTION 550.** 880.81 of the statutes is renumbered 54.950, and 54.950 (3), (4),  
9 (7) and (12), as renumbered, are amended to read:

10 54.950 (3) ~~“Conservator”~~ Notwithstanding s. 54.01 (3), “conservator” means a  
11 person appointed or qualified by a court by voluntary proceedings to manage the  
12 estate of an individual, or a person legally authorized to perform substantially the  
13 same functions.

14 (4) ~~“Court”~~ Notwithstanding s. 54.01 (4), “court” means the circuit court of this  
15 state.

16 (7) ~~“Guardian”~~ Notwithstanding s. 54.01 (10), “guardian” means a person  
17 appointed or qualified by a court as a guardian of the person or estate, or both, of an  
18 individual, including a limited guardian with limited powers, but not a person who  
19 is only a guardian ad litem.

20 (12) ~~“Personal representative”~~ Notwithstanding s. 54.01 (23), “personal  
21 representative” means an executor, administrator or special administrator of a  
22 decedent’s estate, a person legally authorized to perform substantially the same  
23 functions or a successor to any of them.

24 **SECTION 551.** 880.815 of the statutes is renumbered 54.952, and 54.952 (8), as  
25 renumbered, is amended to read:

**SENATE BILL 391****SECTION 551**

1           54.952 (8) ~~This subchapter does~~ Sections 54.950 to 54.988 do not displace or  
2 restrict other means of creating trusts. A trust whose terms do not conform to this  
3 subchapter may be enforceable according to its terms under other law.

4           **SECTION 552.** 880.82 of the statutes is renumbered 54.954.

5           **SECTION 553.** 880.825 of the statutes is renumbered 54.956.

6           **SECTION 554.** 880.83 of the statutes is renumbered 54.958, and 54.958 (1), as  
7 renumbered, is amended to read:

8           54.958 (1) Unless otherwise directed by an instrument designating a custodial  
9 trustee pursuant to s. ~~880.82~~ 54.954, a person, including a fiduciary other than a  
10 custodial trustee, who holds property of or owes a debt to an incapacitated individual  
11 not having a conservator or guardian of the estate may make a transfer to an adult  
12 member of the beneficiary's family or to a trust company as custodial trustee for the  
13 use and benefit of the incapacitated individual. If the value of the property or the  
14 debt exceeds \$10,000, the transfer is not effective unless authorized by the court.

15           **SECTION 555.** 880.835 of the statutes is renumbered 54.960, and 54.960 (3), as  
16 renumbered, is amended to read:

17           54.960 (3) A custodial trustee of custodial trust property held for more than one  
18 beneficiary shall separately account to each beneficiary pursuant to ss. ~~880.84 and~~  
19 ~~880.88~~ 54.962 and 54.978 for the administration of the custodial trust.

20           **SECTION 556.** 880.84 of the statutes is renumbered 54.962.

21           **SECTION 557.** 880.845 of the statutes is renumbered 54.964, and 54.964 (2), as  
22 renumbered, is amended to read:

23           54.964 (2) This section does not relieve a custodial trustee from liability for a  
24 violation of s. ~~880.84~~ 54.962.

25           **SECTION 558.** 880.85 of the statutes is renumbered 54.966.

**SENATE BILL 391**

1           **SECTION 559.** 880.855 of the statutes is renumbered 54.968, and 54.968 (1) (a),  
2 as renumbered, is amended to read:

3           54.968 (1) (a) The custodial trust was created under s. ~~880.83~~ 54.958.

4           **SECTION 560.** 880.86 of the statutes is renumbered 54.970.

5           **SECTION 561.** 880.865 of the statutes is renumbered 54.972.

6           **SECTION 562.** 880.87 of the statutes is renumbered 54.974, and 54.974 (1) and  
7 (3), as renumbered, are amended to read:

8           54.974 (1) Before accepting the custodial trust property, a person designated  
9 as custodial trustee may decline to serve by notifying the person who made the  
10 designation, the transferor or the transferor's legal representative. If an event  
11 giving rise to a transfer has not occurred, the substitute custodial trustee designated  
12 under s. ~~880.82~~ 54.954 becomes the custodial trustee, or, if a substitute custodial  
13 trustee has not been designated, the person who made the designation may  
14 designate a substitute custodial trustee pursuant to s. ~~880.82~~ 54.954. In other cases,  
15 the transferor or the transferor's legal representative may designate a substitute  
16 custodial trustee.

17           (3) If a custodial trustee or successor custodial trustee is ineligible, resigns,  
18 dies or becomes incapacitated, the successor designated under s. ~~880.815 (7) or~~  
19 ~~880.82~~ 54.952 (7) or 54.954 becomes custodial trustee. If there is no effective  
20 provision for a successor, the beneficiary, if not incapacitated, may designate a  
21 successor custodial trustee. If the beneficiary is incapacitated or fails to act within  
22 90 days after the ineligibility, resignation, death or incapacity of the custodial  
23 trustee, the beneficiary's conservator or guardian of the estate becomes successor  
24 custodial trustee. If the beneficiary does not have a conservator or a guardian of the

**SENATE BILL 391****SECTION 562**

1 estate, or the conservator or guardian of the estate fails to act, the resigning custodial  
2 trustee may designate a successor custodial trustee.

3 **SECTION 563.** 880.875 of the statutes is renumbered 54.976.

4 **SECTION 564.** 880.88 of the statutes is renumbered 54.978.

5 **SECTION 565.** 880.885 of the statutes is renumbered 54.980.

6 **SECTION 566.** 880.89 of the statutes is renumbered 54.982, and 54.982 (2) (b),  
7 as renumbered, is amended to read:

8 54.982 (2) (b) To the survivor of multiple beneficiaries if survivorship is  
9 provided for pursuant to s. ~~880.835~~ 54.960.

10 **SECTION 567.** 880.895 of the statutes is renumbered 54.984, and 54.984 (1)  
11 (intro.), as renumbered, is amended to read:

12 54.984 (1) (intro.) If a transaction, including a declaration with respect to or  
13 a transfer of specific property, otherwise satisfies applicable law, the criteria of s.  
14 ~~880.815~~ 54.952 are satisfied by any of the following:

15 **SECTION 568.** 880.90 of the statutes is renumbered 54.986, and 54.986 (1), as  
16 renumbered, is amended to read:

17 54.986 (1) ~~This subchapter applies~~ Sections 54.950 to 54.988 apply to a transfer  
18 or declaration creating a custodial trust that refers to this subchapter if, at the time  
19 of the transfer or declaration, the transferor, beneficiary or custodial trustee is a  
20 resident of or has its principal place of business in this state or custodial trust  
21 property is located in this state. The custodial trust remains subject to this  
22 subchapter despite a later change in residence or principal place of business of the  
23 transferor, beneficiary or custodial trustee, or removal of the custodial trust property  
24 from this state.



## SENATE BILL 391

1       **SECTION 569.** 880.905 of the statutes is renumbered 54.988 and amended to  
2 read:

3       **54.988 Uniformity of application and construction.** This subchapter  
4 Sections 54.950 to 54.988 shall be applied and construed to effectuate its general  
5 purpose to make uniform the law with respect to the subject of this subchapter  
6 among states enacting it.

7       **SECTION 570.** 885.17 of the statutes is amended to read:

8       **885.17 Transactions with deceased agent.** No party, and no person from,  
9 through, or under whom a party derives the party's interest or title ~~shall, may~~ be  
10 examined as a witness in respect to any transaction or communication by the party  
11 or person personally with an agent of the adverse party or an agent of the person  
12 from, through, or under whom such adverse party derives his or her interest or title,  
13 ~~when such~~ if the agent is dead ~~or insane, or otherwise legally, mentally ill, or~~  
14 adjudicated incompetent as a witness, unless the opposite party shall first be  
15 examined or ~~examine~~ some other witness in his or her behalf examined in respect to  
16 some transaction or communication between ~~such~~ the agent and ~~such~~ the other party  
17 or person; or unless the testimony of ~~such~~ the agent, at any time taken, be first read  
18 or given in evidence by the opposite party; and then, in either case respectively, only  
19 in respect to such the transaction or communication of which testimony is so given  
20 or to the matters to which ~~such~~ the testimony relates.

21       **SECTION 571.** 905.04 (4) (a) of the statutes is amended to read:

22       905.04 (4) (a) *Proceedings for hospitalization, guardianship, protective services*  
23 *or protective placement.* There is no privilege under this rule as to communications  
24 and information relevant to an issue in proceedings to hospitalize the patient for  
25 mental illness, to appoint a guardian ~~under s. 880.33 in this state~~, for court-ordered

## SENATE BILL 391

## SECTION 571

1 protective services or protective placement, or for review of guardianship, protective  
2 services or protective placement orders, if the physician, registered nurse,  
3 chiropractor, psychologist, social worker, marriage and family therapist or  
4 professional counselor in the course of diagnosis or treatment has determined that  
5 the patient is in need of hospitalization, guardianship, protective services, or  
6 protective placement.

7 **SECTION 572.** 905.04 (4) (am) of the statutes is amended to read:

8 905.04 (4) (am) *Proceedings for guardianship.* There is no privilege under this  
9 rule as to information contained in a statement concerning the mental condition of  
10 the patient furnished to the court by a physician or psychologist under s. 54.36 (1)  
11 or s. 880.33 (1), 2003 stats.

12 **SECTION 573.** 938.02 (20m) (a) 5. of the statutes is amended to read:

13 938.02 (20m) (a) 5. If a person specified in subd. 1. has been ~~determined to be~~  
14 adjudicated incompetent under ch. 880 in this state, the guardian of the person  
15 appointed ~~under ch. 880~~ for him or her.

16 **SECTION 574.** 938.345 (1) (e) of the statutes is amended to read:

17 938.345 (1) (e) Place any juvenile not specifically found under chs. 46, 49, 51,  
18 54. or 115 and or ch. 880, 2003 stats., to be developmentally disabled or mentally ill  
19 or to be a child with a disability, as defined in s. 115.76 (5), in facilities ~~which~~ that  
20 exclusively treat those categories of juveniles.

21 **SECTION 575.** 949.04 (1) (b) of the statutes is amended to read:

22 949.04 (1) (b) Application by an individual adjudicated incompetent may be  
23 made on the ~~incompetent's~~ individual's behalf by the guardian or other person  
24 authorized to administer the ~~incompetent's~~ individual's estate.

25 **SECTION 576.** 950.02 (4) (a) 5. of the statutes is amended to read:

## SENATE BILL 391

1           950.02 (4) (a) 5. If a person specified in subd. 1. has been ~~determined to be~~  
2   adjudicated incompetent ~~under ch. 880 in this state~~, the guardian of the person  
3   appointed ~~under ch. 880 for him or her~~.

4           **SECTION 577.** 968.20 (1m) (a) 1. of the statutes is amended to read:

5           968.20 (1m) (a) 1. "Crime" includes an act committed by a juvenile or by an  
6   adult who is adjudicated incompetent ~~adult which that~~ would have been a crime if  
7   the act had been committed by a competent adult.

8           **SECTION 578.** 992.08 of the statutes is amended to read:

9           **992.08 Evidence as to county lands; minors.** Whenever in any action it is  
10   material to any party to show that the title to any tract of land is vested in any county,  
11   under chapter 132 of the general laws of 1866, by having been bid in for such county  
12   for 5 successive years on sales for taxes and that the tract remains unredeemed, the  
13   statement of such sales made by the county treasurer, or the record of such statement  
14   in the book kept for that purpose in the treasurer's office, or the certificates of such  
15   sales executed by the treasurer to the county shall be prima facie evidence of the  
16   regularity of the tax proceedings from and including the valuation of any such tract  
17   of land up to and inclusive of the sale thereof and of the existence of all conditions  
18   precedent in any way affecting the validity of such sales, or requisite to make the title  
19   of such land absolutely vest in the county in which the same is situate. This section  
20   does not apply to any such lands if it appears that they were owned at the time of the  
21   sales by minors or persons individuals who were adjudicated incompetent, ~~insane or~~  
22   mentally ill or were under guardianship.

23           **SECTION 579. Nonstatutory provisions.**

24           (1) REVIEW OF ORDER; INVOLUNTARY ADMINISTRATION OF PSYCHOTROPIC MEDICATION.

25   For an individual who is subject to an order appointing a guardian under section

**SENATE BILL 391****SECTION 579**

1 880.33 (4m), 2003 stats., and to an order initially issued under section 880.33 (4r),  
2 2003 stats., that is in effect on the effective date of this subsection, the county  
3 department of the individual's county of residence shall, no later than 9 months after  
4 the effective date of this subsection, review the individual's status under the  
5 requirements of section 55.19 of the statutes, as created by this act.

6 (2) TRANSITION; INVOLUNTARY ADMINISTRATION OF PSYCHOTROPIC MEDICATION.  
7 Notwithstanding the treatment of sections 880.07 (1m), 880.33 (2) (d), (4m), and (4r),  
8 and 880.34 (6) of the statutes by this act, all orders issued under section 880.33 (4m)  
9 and (4r), 2003 stats., in effect on the effective date of this subsection, remain in effect  
10 until modified or terminated by a court order under section 55.19 (3) (e) 2. or 3. of the  
11 statutes, as created by this act.

12 (3) COMPLIANCE BY FACILITIES WITH REQUIREMENTS FOR ADMINISTRATION OF  
13 PSYCHOTROPIC MEDICATION.

14 (a) The department of health and family services shall submit in proposed form  
15 the rules required under section 50.02 (2) (ad), as created in this act, to the legislative  
16 council staff under section 227.15 (1) of the statutes no later than the first day of the  
17 4th month beginning after the effective date of this paragraph.

18 (b) Using the procedure under section 227.24 of the statutes, the department  
19 of health and family services may promulgate rules required under section 50.02 (2)  
20 (ad) of the statutes, as created by this act, for the period before the effective date of  
21 the rules submitted under paragraph (a), but not to exceed the period authorized  
22 under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24  
23 (1) (a), (2) (b), and (3) of the statutes, the department of health and family services  
24 is not required to provide evidence that promulgating a rule under this paragraph  
25 as an emergency rule is necessary for the preservation of the public peace, health,

## SENATE BILL 391

safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this paragraph.

### SECTION 580. Initial applicability.

CE; COUNTY OF RESPONSIBILITY. The treatment of 51.05 (2), ~~51.20 (13) (g) 4,~~ 51.22 (4), 51.40 (title), 2) (intro.), (a) 1. and 2., (b) (intro.), 1., 2. (intro.), and 6., 55.06 (3) (c) and (d), 880.05, 880.06 (title), the statutes first applies to determinations of the effective date of this subsection.

~~AT AN INDIVIDUAL IS A MINOR, INCOMPETENT, OR OF INCOMPETENCY AND APPOINTMENT OF GUARDIAN.~~ OR SPENDTHRIFT

(1) (a) and (2) (a), ~~(b) 1,~~ and (c) 2., 48.14 (2) (b) and (11), 48.343 (intro.), 48.62 (2), 48.831 (1) and (1m) (e), 48.977 (8) (title),

(a), and (b), 48.978 (7) (title) and (a) to (c), 50.03 (14) (c) 8. e., 50.06 (2) (c), 51.30 (4)

(b) 8m. and 18. a. and c. and (5) (e), 51.40 (1) (f), 51.45 (2) (e) and (13) (c) and (e), 54.01

(title) and (intro.), (1), (4) to (7), (10) to (15), (17) (a) and (b), (18), (19), (23) to (27),

(29), (30), (33), (35), (36), and (38), 54.10, 54.15 ~~(2), (3), (4) (title), and (8), 54.25 (1)~~ (1m) (title),

(title), (intro.) and (b) 1. to 5. and (2), 54.34 (1) (k) to (p), 54.36 (2) and (3), 54.38 (title),

(1), and (2) (b), 54.40 (4) (c), (d), (g), and (h), 54.42 (title), (1) (a) 1. to 3. and (b), (2),

(3) (title), (5), and (6), 54.44 (1) to ~~(4) and (6),~~ 54.46 (title), (intro.), (1), (2) (title),

(intro.), (a) and (c), and (3) (c), 54.60 (2) to (6), 55.06 (1) (a), 223.10, 243.07 (3) (b),

757.48 (1) (a), 814.66 (1) (b) 2. and (m), 880.01 (intro.), (1) to (7), and (8) to (10), 880.02,

880.03, 880.04 (1), 880.05, 880.06 (title), (1), and (2), 880.07 (title), (1) (intro.), (a) to

(j), (2), and (4), 880.08 (intro.), (2), (3) (title), (am) (intro.), and 1. to 4. and (e), and (4),

880.09 (intro.), (2), and (4), 880.10, 880.12, 880.125, 880.13 (title), (1), (2) (title), (a),

and (b), and (3), 880.14, 880.33 (title), (1) to (4), (5), (5m), (8), and (9), 880.331 (title),

MATERIAL  
FROM  
PP.  
254-  
256  
GOES  
HERE

Patty -

New changes -  
need to move

some subs.  
Thanks for  
everything! KJF

## SENATE BILL 391

## SECTION 580

(1) to (3), (4) (intro.) and (a) to (f), and (6) to (8), 880.35, and 880.81 (7), subchapters I (title), II (title), III (title), IV (title), and V (title) of chapter 54, subchapter I (title) of chapter 880, and chapters 54 (title) and 880 (title) of the statutes, the repeal of sections ~~880.075 (title)~~ 880.08 (1) (title), and 880.09 (1) (title), (3) (title), and (7) (title) of the statutes, and the renumbering and amendment of sections 880.075, 880.08 (1), and 880.09 (1), (3), and (7) of the statutes first apply to a petition for guardianship filed on the effective date of this subsection.

(3) EXCEPTIONS TO APPOINTMENT OF GUARDIAN. The treatment of sections 54.12 (1) (e) and (f), 814.61 (12) (a) 1., 814.66 (1) (n), and 880.04 (title), (2), (2m), and (3) of the statutes first applies to an action or proceeding pending on the effective date of this subsection.

(4) STANDBY GUARDIANSHIP. The treatment of section 880.36 (title) and (1) of the statutes first applies to a petition for appointment of a standby guardian filed on the effective date of this subsection.

(5) SUCCESSOR GUARDIANSHIP. The treatment of section 880.17 of the statutes first applies to a petition filed or motion brought on the effective date of this subsection.

(6) ELIMINATION OF LIMITED GUARDIANSHIP OF PROPERTY. The treatment of sections 6.03 (1) (a) and (3), 17.03 (6), 51.35 (7), 54.34 (1) (m), 55.06 (14), 155.60 (2), 706.03 (4), 880.215, and 880.37 of the statutes first applies to a procedure for appointment of a limited guardian that is conducted on the effective date of this subsection.

(7) TEMPORARY GUARDIANSHIP. The treatment of sections 50.94 (6), 54.50 (title), (1), and (3), and 880.15 (title), (1), (1m), (1s), (2), and (3) of the statutes first applies to petitions filed on the effective date of this subsection.

**SENATE BILL 391**

1 (8) POWER OF ATTORNEY FOR HEALTH CARE. The treatment of sections 155.05 (1),  
2 155.40 (2m), 155.60 (2), and 880.33 (3) and (8) (b) of the statutes first applies to the  
3 appointment of a guardian under section 54.46 (2) of the statutes, as created by this  
4 act, on the effective date of this subsection.

5 (9) DURABLE POWER OF ATTORNEY. The treatment of sections 54.46 (2) (c), 54.76  
6 (3) and (3g), and 243.07 (3) (a) and (b) and (7) (c) of the statutes first applies to the  
7 appointment of a guardian under section 54.46 (2) of the statutes, as created by this  
8 act, or to the appointment of a conservator under section 54.76 (2) of the statutes, as  
9 created by this act, on the effective date of this subsection.

10 (10) DUTIES AND POWERS OF GUARDIAN OF THE ESTATE. The treatment of sections  
11 54.18 (title) and (1) to (3) (intro.) and (b), 54.19 (title), (intro.), (2) to (6), (8), and (9),  
12 54.20 (title), (1) (a) to (c), (2) (title), (intro.), (a), (c) to (g), (i), and (j), (3) (title), (intro.),  
13 (a) to (e), and (k), 54.21, 880.173 (title), (1), and (2), 880.19 (title), (2) (title), (a) and  
14 (b), (4) (title) and (a) to (c), and (5) (title) and (a) to (d), 880.191 (title), (1), and (2),  
15 880.192, 880.195, 880.21, 880.215, 880.22 (title), and 880.24 (title), (1), (2), and (3)  
16 (title), (a) (intro.) and 1. to 4., and (b) of the statutes, the repeal of section 880.175  
17 (title), 880.18 (title), 880.19 (1) (title) and (3) (title), 880.22 (1) (title) and (2) (title),  
18 and 880.23 (title) of the statutes, and the renumbering and amendment of sections  
19 880.175, 880.18, 880.19 (1) and (3), 880.22 (1) and (2), and 880.23 of the statutes first  
20 apply to a guardianship of the estate in effect on the effective date of this subsection.

21 (11) DUTIES AND POWERS OF GUARDIAN OF THE PERSON. The treatment of sections  
22 54.18 (title) and (1) to (3) (intro.) and (b), 54.25 (1) (title), (intro.) and (b) 1. to 5. and  
23 (2), 880.33 (9), and 880.38 (title) and (1) to (3) of the statutes first applies to a  
24 guardianship of the person in effect on the effective date of this subsection and to a  
25 petition for guardianship filed on the effective date of this subsection.

**SENATE BILL 391****SECTION 580**

1           (12) NOTES AND MORTGAGES OF MINOR VETERANS. The treatment of section 880.32  
2 of the statutes first applies to a note or mortgage executed on the effective date of this  
3 subsection.

4           (13) PSYCHOTROPIC MEDICATIONS. The treatment of sections 51.03 (3) (a) 6., 54.01  
5 (6), (28), and (30), 54.25 (2) (d) 2. a., 55.01 (1v), (6t), and (6v), 55.05 (2) (d), 55.14,  
6 55.19, 609.65 (1) (intro.), 880.01 (2), (7m), and (8), 880.07 (1m), 880.33 (2) (d), (4m),  
7 and (4r), 880.34 (6), and 905.04 (4) (am) of the statutes, the repeal of section 51.20  
8 (7) (d) 1. a. and b. of the statutes, the renumbering and amendment of section 51.20  
9 (7) (d) 1. (intro.) of the statutes first applies to petitions for involuntary  
10 administration of psychotropic medication that are filed on the effective date of this  
11 subsection.

12           (14) HUNTING, PATRON, AND GUIDE LICENSES. The treatment of sections 29.024  
13 (2u), 29.161, 29.164 (3) (e), 29.171 (1), 29.173 (1), 29.182 (4m), 29.184 (6) (c) 1r. and  
14 2., 29.231 (1), 29.235 (1), and 29.512 (1) of the statutes first applies to receipt by the  
15 department of natural resources of a declaration issued by a court that an individual  
16 is incapable of understanding the nature and risks of the licensed or credentialed  
17 activity.

18           (15) ACCOUNTS. The treatment of sections 54.62 (title), (3), (4), and (7) (a) to (c),  
19 808.075 (4) (f) 8., 880.245, 880.25 (title) and (1) to (5), 880.252, and 880.253 of the  
20 statutes first applies to annual accounts that are due before April 15, 2006.

21           (16) EXPANSION OF ORDER OF GUARDIANSHIP. The treatment of section 54.63 of the  
22 statutes first applies to submittal of a written statement to the court on the effective  
23 date of this subsection.

24           (17) REVOCATION OR SUSPENSION OF LICENSES AND CREDENTIALS. The treatment  
25 of sections 343.06 (1) (L), 343.31 (title), (2x), and (3) (a), and 440.121 of the statutes



**SENATE BILL 391****SECTION 580**

1 first applies to receipt by an administrative agency of a record of a declaration on the  
2 effective date of this subsection.

3 (18) SETTLEMENTS AND JUDGMENTS. The treatment of section 807.10 (title) and  
4 (1) to (3) of the statutes first applies to settlements or judgments made on the  
5 effective date of this subsection.

6 (19) REVIEW OF INCOMPETENCY AND TERMINATION OF GUARDIANSHIP. The treatment  
7 of sections 54.64 (2) (title), (a) 1. to 3., and (b), 880.26 (title), (1) (intro.) and (a) to (c),  
8 (2) (intro.) and (a) to (d), and (3), 880.29, and 880.34 (title) and (1) to (5) of the statutes  
9 first applies to a petition for review of incompetency filed on the effective date of this  
10 subsection.

11 (20) REVIEW OF CONDUCT OF GUARDIAN. The treatment of section 54.68 of the  
12 statutes first applies to commitment by a guardian of any action specified under  
13 section 54.68 (2) (a) to (j) of the statutes, as created by this act, on the effective date  
14 of this subsection.

15 (21) FINAL ACCOUNTS. The treatment of sections 54.66 (title) and (3), 808.075  
16 (4) (f) 8., 880.25 (3), 880.27, 880.28, and 880.60 (10) (a) of the statutes first applies  
17 to the termination or the resignation, removal, or death of a guardian or the death  
18 of a ward on the effective date of this subsection.

19 (22) APPOINTMENT OF CONSERVATOR AND STANDBY CONSERVATOR. The treatment of  
20 sections 54.01 (3), (32), and (34), 54.34 (1) (p), 54.46 (1) (b), 54.76 (title), (3g), (3m) and  
21 (3n), and (6) to (9), 243.07 (3) (a) to (c), 814.66 (1) (b) 2., 880.13 (3), 880.295, and 880.33  
22 (8) (intro.) and (a) and subchapter VI (title) of chapter 54 of the statutes, the repeal  
23 of section 880.31 (title) of the statutes, the renumbering and amendment of section  
24 880.31 (2), (3), and (6) of the statutes, and the consolidation, renumbering, and  
25 amendment of section 880.31 (1), (4), (5), and (7) of the statutes first apply to an

## SENATE BILL 391

## SECTION 580

1 application or petition for appointment of a conservator made on the effective date  
2 of this subsection.

3 (23) TERMINATION OF CONSERVATORSHIP. The treatment of section 54.76 (6) to (9)  
4 of the statutes first applies to commitment by a conservator of any action specified  
5 under section 54.76 (6) (a) to (h) of the statutes, as created by this act, or appointment  
6 of a guardian, death of a conservatee, or change of residence of a conservator or  
7 conservatee on the effective date of this subsection.

8 (24) DEGENERATIVE BRAIN DISORDER. The treatment of section 51.01 (5) (a) of the  
9 statutes first applies to a diagnosis of developmental disability made on the effective  
10 date of this subsection.

11 (25) PROTECTIVE PLACEMENT OR PROTECTIVE SERVICES. The treatment of sections  
12 55.05 (2) (d), 55.06 (1) (a), (3) (c) and (d), (6), and (8) (c), and 880.33 (7) of the statutes  
13 first applies to a petition for protective placement or protective services filed on the  
14 effective date of this subsection.

15 (26) REVIEW OF PROTECTIVE PLACEMENT OR PROTECTIVE SERVICES. The treatment  
16 of sections 55.195 (7) and (9) and 880.331 (5) (intro.) and (a) to (g) of the statutes first  
17 applies to a review of protective placement or of protective services conducted on the  
18 effective date of this subsection.

INSERT 254-18  
19 **SECTION 581. Effective dates.** This act takes effect on the first day of the 7th  
20 month beginning after publication, except as follows:

21 (1) COMPLIANCE BY FACILITIES WITH REQUIREMENTS FOR ADMINISTRATION OF  
22 PSYCHOTROPIC MEDICATION. The treatment of SECTION 579 (3) of this act takes effect  
23 on the day after publication.

24 (2) TRANSITION; GUARDIANSHIP APPOINTMENTS.

change  
to  
NS:  
subs  
MOVE TO AFTER  
P 249, line 2

**SENATE BILL 391**

1 (a) 1. Notwithstanding the treatment of sections 880.03 and 880.12 of the  
2 statutes by this act, except as provided in subsection (3), all guardianships of the  
3 person appointed under section 880.03, 2003 stats., in effect on the effective date of  
4 this subsection, remain in effect until modified by court order under section 54.64 (2),  
5 of the statutes, as affected by this act, terminated by court order under section 54.64  
6 (3) of the statutes, as affected by this act, or removed by court order under section  
7 54.68 (4) (d) or (5) of the statutes, as created by this act.

8 2. Notwithstanding the treatment of sections 880.03 and 880.12 of the statutes  
9 by this act, except as provided in subsection (3), all guardianships of the estate  
10 appointed under section 880.03, 2003 stats., in effect on the effective date of this  
11 subsection, remain in effect until modified by court order under section 54.64 (2) of  
12 the statutes, as affected by this act, terminated by court order under section 54.64  
13 (4) of the statutes, as affected by this act, or removed by court order under section  
14 54.68 (4) (d) or (5) of the statutes, as created by this act.

15 (b) Notwithstanding the treatment of sections 880.295 and 880.33 (4) of the  
16 statutes, by this act, except as provided in subsection (3), all guardianships  
17 appointed under section 880.295 or 880.33 (4), 2003 stats., in effect on the effective  
18 date of this subsection, remain in effect until modified by court order under section  
19 54.64 (2) of the statutes, as affected by this act, terminated by court order under  
20 section 54.64 (3) or (4) of the statutes, as affected by this act, or removed by court  
21 order under section 54.68 (4) (d) or (5) of the statutes, as created by this act.

22 (5) ~~(3)~~ TRANSITION; GUARDIANSHIP REVIEW AND REMOVAL.

23 (a) Notwithstanding the treatment of section 880.16 and 880.192 of the  
24 statutes by this act, all actions for removal of a guardian under section 880.16, 2003  
25 stats., in effect on the effective date of this subsection, remain in effect until

MOVE  
TO  
AFTER  
P. 248,  
line  
2

## SENATE BILL 391

## SECTION 581

MOVE  
TO  
AFTER  
P. 248  
line  
2

1 determined by the court under that section, and all actions for review of an account  
2 or removal of a guardian under section 880.192, 2003 stats., in effect on the effective  
3 date of this subsection, remain in effect until determined by the court under that  
4 section.

5 (b) Notwithstanding the treatment of sections 880.251 and 880.34 (3) of the  
6 statutes by this act, all actions for removal of a guardian under section 880.251, 2003  
7 stats., in effect on the effective date of this subsection remain in effect until the court  
8 issues an order of removal or dismisses the action, and all actions under section  
9 880.34 (3), 2003 stats., for discharge of a guardian or limitation of a guardianship in  
10 effect on the effective date of this subsection remain in effect until determined by the  
11 court under that subsection.

12 (6) (4) TRANSITION; LIMITED GUARDIANSHIP. Notwithstanding the treatment of  
13 sections 880.33 (3) and 880.37 of the statutes by this act, all limited guardianships  
14 appointed under sections 880.33 (3) and 880.37, 2003 stats., in effect on the effective  
15 date of this subsection remain in effect until modified by court order under section  
16 54.64 (2) of the statutes, as affected by this act, terminated by court order under  
17 section 54.64 (3) or (4) of the statutes, as affected by this act, or removed by court  
18 order under section 54.68 (4) (d) or (5) of the statutes, as created by this act.

19

(END)

INSERT 256-18

2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBs0472/?ins

.....

**INSERT ANAL 10**

no ¶  
are → ~~it is~~ The substitute amendment specifies evidence that the court must consider in appointing a guardian of the estate for a spendthrift or in determining what powers ~~it is~~ appropriate for a guardian of the estate of a spendthrift to exercise. The evidence includes the report of the guardian ad litem, the required medical or psychological report, whether other reliable resources are available to provide for the individual's personal needs or property management, and other matters. As with the appointment of a guardian for a person who is found to be incompetent, the court must determine e

**INSERT ANAL 15**

no ¶ For a ward who receives governmental benefits for which a representative payee is appropriate, the substitute amendment requires that, if no representative payee is appointed, the guardian apply to be appointed or ensure that a representative payee is appointed. no ¶

**INSERT ANAL 17**

***Petition for the receipt and acceptance of a foreign guardian***

X The substitute amendment establishes a procedure, based on requirements specified by the Wisconsin Supreme Court in *Matter of the Guardianship of Jane E. P.*, 275 Wis.2d 680 (2005), for the receipt and acceptance by Wisconsin of an out-of-state (foreign) guardianship of a ward who resides in or intends to move to Wisconsin. The substitute amendment specifies requirements for the petition, including a certified copy of the foreign guardian order and the address of the foreign court that issued the guardianship order, and the reason for transfer of the guardianship. The bill also specifies requirements for notice of the petition and how and on whom the notice must be served. Part of the notice to the foreign court must include a request that that court provide certification of any knowledge of failure of the foreign guardian to perform required duties or any prohibited acts of the guardian and copies of all relevant filed documents. Failure by the petitioner to adequately serve the notice deprives a Wisconsin court of jurisdiction, under the substitute amendment, as does failure of the foreign court to provide the certifications and copies within 30 days after receipt of notice or to give indication that the foreign court will comply within a reasonable time. The substitute amendment requires that a guardian ad litem be appointed for the foreign ward and specifies time limits for a hearing on the petition. If an interested person who receives notice of the petition challenges the validity of the foreign guardianship or the authority of the foreign court to appoint the foreign guardian, the court may stay the proceeding so that the foreign court may hear the challenge and determine its merits. The substitute amendment requires the physical or telephone presence of the petitioner at the hearing and requires that the petition ensure that the foreign ward attends unless attendance is waived by the guardian ad litem of the foreign ward or the hearing is held in a place where the foreign ward may attend. The substitute amendment requires the court to dismiss the petition if the foreign

guardian is not in good standing with the foreign court, the foreign guardian is moving the foreign ward or the ward's property in order to avoid or circumvent the foreign guardianship order, or if the transfer is not in the best interests of the foreign ward. The substitute amendment specifies standards for granting the petition and authorizes the court to make certain modifications to the order. If the petition is granted, the court has continuing jurisdiction over the guardian. The court must coordinate with the foreign court the orderly transfer of the foreign guardianship. Lastly, within a reasonable period of time after a petition for receipt and acceptance of a foreign guardianship is granted, the court must review the guardianship provisions and inform the guardian and ward of available services.

**INSERT 24-5**

**SECTION 1.** 29.235 (1) of the statutes, as affected by 2005 Wisconsin Act 25, is amended to read:

29.235 (1) ISSUANCE. A resident conservation patron license shall be issued subject to ~~s. ss.~~ 29.024 and 54.25 (2) (c) 1. d. by the department to any resident 12 years old or older who applies for the license. A nonresident conservation patron license shall be issued subject to s. 29.024 by the department to any person 12 years old or older who is not a resident and who applies for the license.

History: 1983 a. 27; 1987 a. 27; 1991 a. 39, 269; 1993 a. 213; 1995 a. 27; 1997 a. 1, 27; 1997 a. 248 ss. 338 to 344; Stats. 1997 s. 29.235; 2001 a. 109; 2005 a. 25.

**INSERT 29-12**

**SECTION 2.** 46.977 (2) (a) of the statutes, as affected by 2005 Wisconsin Act 25, is amended to read:

46.977 (2) (a) From the appropriation under s. 20.435 (7) (cg), the department may under this section, based on the criteria under par. (c), award grants to applying organizations for the purpose of training and assisting guardians for persons determined to be individuals found incompetent under ch. 880 54. No grant may be paid unless the awardee provides matching funds equal to 10% of the amount of the award.

History: 1987 a. 368; 1989 a. 31; 1995 a. 27, 464; 2005 a. 25.

**SECTION 3.** 46.977 (2) (c) of the statutes, as affected by 2005 Wisconsin Act 25, is amended to read:

1           46.977 (2) (c) In reviewing applications for grants, the department shall  
2 consider the extent to which the proposed program will effectively train and assist  
3 guardians for ~~persons determined to be~~ <sup>✓</sup> individuals found incompetent under ch. 880  
4 <sup>✓</sup> 54.

History: 1987 a. 368; 1989 a. 31; 1995 a. 27, 464; 2005 a. 25.

**INSERT 53-24**

5           (9g) "Foreign court" means a court of a foreign state having competent  
6 jurisdiction of a foreign ward. <sup>✓</sup>

7           (9i) "Foreign guardian" means a guardian appointed by a foreign court for a  
8 foreign ward. <sup>✓</sup>

9           (9k) "Foreign guardianship" means a guardianship issued by a foreign court. <sup>✓</sup>

10          (9m) "Foreign state" means a state other than this state.

11          (9p) "Foreign ward" means an individual who has been found by a foreign court  
12 to be incompetent or a spendthrift and who is subject to a guardianship order or  
13 related order in a foreign state.

**INSERT 59-17**

14          (b) In appointing a guardian of the estate under this subsection or determining <sup>✓</sup>  
15 what powers ~~it is~~ <sup>are</sup> appropriate for the guardian of the estate to exercise under s. 54.18 <sup>✓</sup>  
16 or 54.20, the court shall consider all of the following:

17           1. The report of the guardian ad litem, as required in s. 54.40 (4). <sup>✓</sup>

18           2. The medical or psychological report provided under s. 54.36 (1) and any <sup>✓</sup>  
19 additional medical, psychological, or other evaluation ordered by the court under s.  
20 54.40 (4) (e) or offered by a party and received by the court. <sup>✓</sup>

21           3. Whether other reliable resources are available to provide for the individual's  
22 personal needs or property management, and whether appointment of a guardian of

1 the estate is the least restrictive means to provide for the individual's need for a  
2 substitute decision maker.

3 4. The preferences, desires, and values of the individual with regard to personal  
4 needs or property management.

5 5. The nature and extent of the individual's care and treatment needs and  
6 property and financial affairs.

7 6. Whether the individual's situation places him or her at risk of abuse,  
8 exploitation, neglect, or violation of rights.

9 7. The extent of the demands placed on the individual by his or her personal  
10 needs and by the nature and extent of his or her property and financial affairs.

11 8. Any mental disability, alcoholism, or other drug dependence of the individual  
12 and the prognosis of the mental disability, alcoholism, or other drug dependence.

13 9. Whether the effect on the individual's evaluative capacity is likely to be  
14 temporary or long term, and whether the effect may be ameliorated by appropriate  
15 treatment.

16 10. Other relevant evidence.

17 (c) Before appointing a guardian of the estate under this subsection or  
18 determining what powers <sup>are</sup> ~~it is~~ appropriate for the guardian of the estate to exercise  
19 under s. 54.18 or 54.20, the court shall determine if additional medical,  
20 psychological, social, vocational, or education<sup>al</sup> evaluation is necessary for the court  
21 to make an informed decision respecting the individual.

22 (d) In appointing a guardian of the estate under this subsection, the court shall  
23 authorize the guardian of the estate to exercise only those powers under ss. 54.18 and  
24 54.20 that are necessary to provide for the individual's personal needs and property



1 management and to exercise the powers in a manner that is appropriate to the  
2 individual and that constitutes the least restrictive form of intervention.

**INSERT 65-21**

3 (9) For a ward who receives governmental benefits for which a representative  
4 payee is appropriate, if no representative payee is appointed, apply to be appointed  
5 the ward's representative payee, or ensure that a representative payee is appointed.

**INSERT 80-4**

6 (3) A petition for the receipt and acceptance by this state of a foreign  
7 guardianship of a foreign ward who resides in or intends to move to this state may  
8 include other petitions related to the foreign guardianship, such as a petition to  
9 modify the terms of the foreign guardianship, and shall include all of the following:

10 (a) A certified copy of the foreign guardianship order that includes all of the  
11 following:

12 1. All attachments that describe the duties and powers of the foreign guardian.  
13 2. All amendments or modifications to the foreign guardianship order that were  
14 entered after issuance of the original foreign guardianship order, including any order  
15 to transfer the foreign guardianship.

16 (b) The address<sup>✓</sup> of the foreign court that issued the foreign guardianship order.

17 (c) A listing of any other guardianship petitions for the foreign ward that are  
18 pending or that have been filed in any jurisdiction at any time within 24 months  
19 before the filing of the petition under this subsection<sup>✓</sup> and the names and addresses  
20 of the courts in which the petitions have been filed.

21 (d) The petitioner's name, residence, current address, and any relationship of  
22 the petitioner to the foreign ward other than as foreign guardian.

23 (e) The name, age, principal residence, and current address of the foreign ward.

(f) The name and address of any spouse of the foreign ward and any adult children, parents, or adult siblings of the foreign ward. If the foreign ward has no spouse, adult child, parent, or adult sibling, the name and address of at least one adult who is next closest in degree of kinship, as specified in s. 990.001 (16), to the ward, if available.

(g) The name and address of any person other than the foreign guardian who is responsible for the care or custody of the foreign ward.

(h) The name and address of any legal counsel of the foreign ward, including any guardian ad litem appointed by the foreign court.

(i) The reason for the transfer of the foreign guardianship.

(j) A general statement of the foreign ward's property, its location, its estimated value, and the source and amount of any other anticipated income or receipts.

**INSERT 80-18**

no # Failure of the petitioner to provide notice to all interested persons shall deprive the court of jurisdiction unless receipt of notice is waived by the interested person or under sub. (2) (b) 4.

**(1m)** NOTICE OF PETITION FOR RECEIPT AND ACCEPTANCE OF A FOREIGN GUARDIANSHIP. (a) Notice of a petition for receipt and acceptance of a foreign guardianship, unless otherwise provided, shall be delivered in person, by certified mail with return receipt requested, or by facsimile transmission. Notice is considered to be given by proof of personal delivery or by proof that the notice was mailed to the last-known address of the recipient or was sent by facsimile transmission to the last-known facsimile transmission number of the recipient.

Notice shall be served by the petitioner on all of the following:

1           1. The foreign ward. The notice under this subdivision shall <sup>✓</sup> delivered <sup>be</sup>  
2 personally, shall be in plain language and large type, and shall include all of the  
3 following:

4           a. A statement that the foreign ward has the right to a hearing on the petition  
5 under s. 54.44 <sup>✓</sup> and that any request for a hearing must be made within 30 <sup>✓</sup> days after  
6 the date that the petition is delivered in person.

7           b. A description of the procedures by which the foreign ward may exercise his  
8 <sup>her</sup> or right to a hearing.

9           c. A description of the consequences to the foreign ward of a transfer of the  
10 foreign guardianship from the foreign jurisdiction to this state.

11           2. The foreign court from which the foreign guardianship is sought to be  
12 transferred. Notice under this subdivision <sup>✓</sup> shall include a request that the foreign  
13 court provide all of the following:

14           a. Certification that <sup>✓</sup> that the foreign court has no knowledge that the foreign  
15 guardian has engaged in any acts specified in s. 54.68 (2) (a) to (i), <sup>✓</sup> failed to perform  
16 any duties of a guardian required by the foreign jurisdiction or the foreign court, or  
17 performed any acts prohibited to a guardian by the foreign jurisdiction or the foreign  
18 court.

19           b. Copies of all documents filed with the foreign court that are relevant to the  
20 foreign guardianship, including the initial petition for the foreign guardianship and  
21 other filed documents relevant to the appointment of the guardian; any reports and  
22 recommendations of any guardian ad litem or other individual appointed by the  
23 foreign court to evaluate the appropriateness of the foreign guardianship; any  
24 reports of health care or mental health care practitioners that describe the capacity  
25 of the foreign ward to care for himself or herself or to manage his or her affairs; any

1 periodic status reports on the condition of the foreign ward and his or her assets; and  
2 any order to transfer the foreign guardianship.

3 3. All interested persons other than the foreign ward, including any foreign  
4 legal counsel appointed or retained for the foreign ward and any foreign guardian ad  
5 litem appointed for the foreign ward. Notice under this subdivision shall include a  
6 statement that informs person<sup>s</sup> receiving notice of the right to object to the receipt and  
7 acceptance of the foreign guardianship and that any request for a hearing must be  
8 made within 30 days after the date that the petition is delivered in person, mailed,  
9 or sent by facsimile transmission.

10 (b) Any of the following shall deprive the court of jurisdiction to hear the  
11 petition for receipt and acceptance of the foreign guardianship:

12 1. Failure by the petitioner to serve notice as specified in par. (a) 1., 2., or 3. ✓ ✓ ✓

13 2. Failure by the foreign court to provide the certifications and copies within  
14 30 days after receipt of the notice specified in par. (a) 2. or to give indication of ✓  
15 compliance within a reasonable period of time.

**INSERT 83-2**

16 (c) *Time of hearing for petition for receipt and acceptance of a foreign*  
17 *guardianship.* 1. If a motion for a hearing on a petition for receipt and acceptance  
18 of a foreign guardianship is made by the foreign ward, by a person who has received  
19 notice under s. 54.38 (1m)<sup>(a)</sup> 3., or on the court's own motion, a hearing on the petition  
20 shall be heard within 90 days after the petition is filed.

21 2. If a petition for receipt and acceptance of a foreign guardianship includes a  
22 request to modify the provisions of the foreign guardianship, the petition shall be  
23 heard within 90 days after it is filed.

1           3. If a person receiving notice of the petition for receipt and acceptance of the  
2 foreign guardianship challenges the validity of the foreign guardianship or the  
3 authority of the foreign court to appoint the foreign guardian, the court may stay the  
4 proceeding under this subsection<sup>✓</sup> to afford the opportunity to the interested person  
5 to have the foreign court hear the challenge and determine its merits.

**INSERT 83-8**

6           (b) The petitioner, for a petition for receipt and acceptance of a foreign  
7 guardianship, shall be physically present at the hearing specified under sub. (1)<sup>✓</sup>(c)  
8 unless the court excuses the petitioner's attendance or, for good cause shown, permits  
9 attendance by telephone.

**INSERT 83-21**

10           (c) *Foreign ward.* The petitioner for a petition for receipt and acceptance of a  
11 foreign guardianship shall ensure that the foreign ward attends the hearing unless  
12 the attendance is waived by the guardian ad litem. In determining whether to waive  
13 attendance by the foreign ward, the guardian ad litem shall consider the ability of  
14 the foreign ward to understand and meaningfully participate, the effect of the foreign  
15 ward's attendance on his or her physical or psychological health in relation to the  
16 importance of the proceeding, and the foreign ward's expressed desires. If the foreign  
17 ward is unable to attend the hearing because of residency in a nursing home or other  
18 facility, physical inaccessibility, or a lack of transportation and if the foreign ward,  
19 guardian ad litem, advocate counsel, or other interested person so requests, the court  
20 shall hold the hearing in a place where the foreign ward may attend.

**INSERT 84-16**

1           **(1m)** DISMISSAL OF THE PETITION FOR RECEIPT AND ACCEPTANCE OF A FOREIGN  
2 GUARDIANSHIP. If the court finds any of the following, the court shall dismiss the  
3 petition:

4           (a) The foreign guardian is not presently in good standing with the foreign  
5 court.

6           (b) The foreign guardian is moving or has moved the foreign ward or the  
7 property of the foreign ward from the foreign jurisdiction in order to avoid or  
8 circumvent the provisions of the foreign guardianship order.

9           (c) The transfer of the foreign guardianship from the foreign jurisdiction is not  
10 in the best interests of the foreign ward.

11           **(1r)** RECEIPT AND ACCEPTANCE OF A FOREIGN GUARDIANSHIP. (a) The court shall  
12 grant a petition for receipt and acceptance of a foreign guardianship if the court finds  
13 all of the following:

14           1. That the foreign guardian is presently in good standing with the foreign  
15 court.

16           2. That the foreign guardian is not moving or has not moved the foreign ward  
17 or the property of the foreign ward from the foreign jurisdiction in order to avoid or  
18 circumvent the provisions of the foreign guardianship order.

19           3. That the transfer of the foreign guardianship from the foreign jurisdiction  
20 is in the best interests of the foreign ward.

21           (b) In granting a petition under par. (a), the court shall give full faith and credit  
22 to the provisions of the foreign guardianship order concerning the determination of  
23 the foreign ward's incapacity. However, the court may modify the provisions of the  
24 foreign guardianship order with respect <sup>to</sup> all of the following:

- 1           1. Surety bond requirements.
- 2           2. The appointment of a guardian ad litem.
- 3           3. Periodic reporting requirements.
- 4           4. Any other provisions necessary to conform the foreign guardianship order
- 5 to the requirements of this chapter and other requirements of this state.

6           (c) The court may require the foreign guardian to file an inventory of the foreign

7 ward's property at the time of the transfer from the foreign jurisdiction.

8           (d) If granting the petition for receipt and acceptance of the foreign

9 guardianship, the court shall coordinate with the foreign court the orderly transfer

10 of the foreign guardianship and, in doing so, the court may do all of the following:

11           1. Delay the effective date of the receipt and acceptance of the foreign

12 guardianship.

13           2. Make the receipt and acceptance of the foreign guardianship contingent

14 upon the release or termination of the foreign guardianship and discharge of the

15 foreign guardian under the foreign jurisdiction.

16           3. Recognize concurrent jurisdiction over the guardianship for a reasonable

17 period of time to permit the foreign court to release or terminate the foreign

18 guardianship and discharge the foreign guardian.

19           4. Make other arrangements that the court determines are necessary to

20 effectuate the receipt and acceptance of the foreign guardianship.

**INSERT 90-24**

(21) no # Within a reasonable period of time after granting a petition for receipt and

22 acceptance of a foreign guardianship under s. 54.46 (1r), the court shall review the

23 provisions of the guardianship and, as part of its review, shall inform the guardian

24 and ward of services that may be available to the ward.

**INSERT 100-24**

1 ~~no #~~ Admission under this paragraph is not permitted for an individual for whom  
2 the primary purpose of admission is for treatment or services related to the  
3 individual's mental illness or developmental disability.

**INSERT 106-7**

4 ~~no #~~ If the subject is an adult who has been adjudicated incompetent in this state,  
5 consent for release of information from and access to court records may be given only  
6 as provided in s. 54.75.

**INSERT 174-2**

7 ~~no #~~ Jurisdiction under this subsection also extends to the petition by a foreign  
8 guardian for the receipt and acceptance of a foreign guardianship, except as provided  
9 in s. 54.38 (1m) and, if the petition is granted, to the accepted guardianship.

**INSERT 176-24**

10 ~~no #~~ A petition for receipt and acceptance of a foreign guardianship shall be directed  
11 to the circuit court of the county in which the foreign ward resides or intends to  
12 reside.

**INSERT 220-12**

13 ~~no #~~ when a petition for receipt and acceptance of a foreign guardianship is brought  
14 under s. 54.34 (3).

**INSERT 254-18**

15 ~~#~~ (27) PETITION FOR RECEIPT AND ACCEPTANCE OF FOREIGN GUARDIANSHIP. The  
16 treatment of sections 54.01 (9g), (9i), (9k), (9m), and (9p), 54.34 (3), 54.38 (1m), 54.44  
17 (1) (c), (3) (b) and (4) (c), 54.46 (1m) and (1r), 54.68 (1), 880.02, 880.05, 880.07 (title),  
18 880.33 (2) (e) and 880.331 (1) of the statutes first applies to a petition for receipt and  
19 acceptance of a foreign guardianship filed on the effective date of this subsection.



**2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0472/lins

.....

**INSERT 230-4**

1

2           **SECTION 1.** 880.60 (title) of the statutes, as affected by 2005 Wisconsin Act 22,  
3 is renumbered 54.852 (title).

4           **SECTION 2.** 880.60 (1) (intro.) of the statutes is renumbered 54.852 (1) (intro.).

5           **SECTION 3.** 880.60 (1) (a) of the statutes, as affected by 2005 Wisconsin Act 22,  
6 is renumbered 54.852 (1) (a).

7           **SECTION 4.** 880.60 (1) (b) to (g), (2) to (4) and (5) (title) and (a) of the statutes  
8 are renumbered 54.852 (1) (b) to (g), (2) to (4) and (5) (title) and (a), and 54.852 (1)  
9 (d) and (g), as renumbered, are amended to read:

**INSERT 230-10**

10           **SECTION 5.** 880.60 (5) (b) of the statutes, as affected by 2005 Wisconsin Act 22,  
11 is renumbered 54.852 (5) (b).

12           **SECTION 6.** 880.60 (5) (c) and (d) and (6) to (18) of the statutes are renumbered  
13 54.852 (5) (c) and (d) and (6) to (18), and 54.852 (10) (a) and (12), as renumbered, are  
14 amended to read:

**INSERT 230-15**

15           **SECTION 7.** 880.60 (19) of the statutes, as affected by 2005 Wisconsin Act 22,  
16 is renumbered 54.852 (19).

17           **SECTION 8.** 880.60 (20) and (21) of the statutes are renumbered 54.852 (20) and  
18 (21).

**2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0472/?insMG  
MGG:.....

**Insert 22-19**

**SECTION 1.** 29.164 (3) (e) of the statutes, as affected by 2000 Wisconsin Act 25, is repealed and recreated to read:

29.164 (3) (e) *Notification; issuance; payment.* The department shall issue a notice of approval to those qualified applicants selected to receive a wild turkey hunting license and tag under par. (a). A person who receives a notice of approval and who pays the license fee in the manner required by the department shall be issued a wild turkey hunting license, subject to ss. 29.024 and 54.25 (2) (c) 1.d., and a tag. The department may not charge a fee for a tag that is issued under this paragraph.

History: 1981 c. 262; 1983 a. 27, 192; 1985 a. 332 s. 253; 1987 a. 399; 1989 a. 31, 73; 1991 a. 39, 77, 269; 1995 a. 27; 1997 a. 27, 168; 1997 a. 248 ss. 212 to 230; Stats. 1997 s. 29.164; 1997 a. 249 s. 21; 1999 a. 9, 32; 2001 a. 18; 2003 a. 67; 2005 a. 25.

**Insert 256-18**

~~**SECTION 2. Effective dates.** This act takes effect on the day after publication, except as follows:~~ (2)

~~(1) WILD TURKEY HUNTING LICENSES.~~ The repeal and recreation of section 29.164 (3) (e) of the statutes takes effect on March 1, 2006.

CCC.  
to SSA1 to SB-391

Page 259, line 15: delete "NO TAG" and  
substitute "(5)" (B)

Page 259, line 22: delete "NO TAG" and  
substitute "(5)" (B)

Page 260, line 4: delete "NO TAG" and  
substitute "(5)" (B)

Page 226, line 13: delete "~~decision~~" and  
substitute "~~decision~~".

Page 226, line 14: delete "interests" <sup>plain</sup> (B) and  
substitute "interests". <sub>scored</sub> (B)

✓ Page 226, line 15: delete "(1m)" <sup>(B)</sup> and  
substitute "(1m)" <sub>(B)</sub> (B)

S0472/1

Imk/5/9

1 including ~~representatives of providers of service and interested persons,~~ their  
2 attorneys, and witnesses, may be present.

3 **SECTION 466.** 880.33 (3) of the statutes is repealed.

4 **SECTION 467.** 880.33 (4) of the statutes is repealed.

5 **SECTION 468.** 880.33 (4m) and (4r) of the statutes are repealed.

6 **SECTION 469.** 880.33 (5) of the statutes is renumbered 54.15 (1) and amended  
7 to read:

8 54.15 (1) OPINIONS OF PROPOSED WARD AND FAMILY. ~~In appointing a guardian, the~~  
9 ~~The~~ court shall take into consideration the opinions of the ~~alleged incompetent~~  
10 proposed ward and of the members of the his or her family as to what is in the best  
11 interests of the proposed ~~incompetent~~ ward. However, the best interests of the  
12 proposed ~~incompetent~~ ward shall control in making the determination when the  
13 opinions of the family are in conflict with ~~the clearly appropriate decision~~ those best  
14 interests.

15 (1m) The court shall also consider potential conflicts of interest resulting from  
16 the prospective guardian's employment or other potential conflicts of interest. ~~If the~~  
17 ~~proposed incompetent has executed a power of attorney for health care under ch. 155,~~  
18 ~~the court shall give consideration to the appointment of the health care agent for the~~  
19 ~~individual as the individual's guardian.~~

20 **SECTION 470.** 880.33 (5m) of the statutes is renumbered 54.15 (9) and amended  
21 to read:

22 54.15 (9) LIMITATION ON NUMBER OF WARDS OF GUARDIAN. No person, ~~except a~~  
23 ~~nonprofit corporation approved by the department of health and family services~~  
24 ~~under s. 880.35, who has~~ individual may have guardianship of the person of more  
25 than 5 or more adult wards who are unrelated to the person ~~may accept appointment~~

1 council staff under section 227.15 (1) of the statutes no later than the first day of the  
2 4th month beginning after the effective date of this paragraph.

3 (b) Using the procedure under section 227.24 of the statutes, the department  
4 of health and family services may promulgate rules required under section 50.02 (2)  
5 (ad) of the statutes, as created by this act, for the period before the effective date of  
6 the rules submitted under paragraph (a), but not to exceed the period authorized  
7 under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24  
8 (1) (a), (2) (b), and (3) of the statutes, the department of health and family services  
9 is not required to provide evidence that promulgating a rule under this paragraph  
10 as an emergency rule is necessary for the preservation of the public peace, health,  
11 safety, or welfare and is not required to provide a finding of emergency for a rule  
12 promulgated under this paragraph.

13 (4) TRANSITION; GUARDIANSHIP APPOINTMENTS.

14 (a) 1. Notwithstanding the treatment of sections 880.03 and 880.12 of the  
15 statutes by this act, except as provided in subsection (NO TAG), all guardianships  
16 of the person appointed under section 880.03, 2003 stats., in effect on the effective  
17 date of this subsection, remain in effect until modified by court order under section  
18 54.64 (2), of the statutes, as affected by this act, terminated by court order under  
19 section 54.64 (3) of the statutes, as affected by this act, or removed by court order  
20 under section 54.68 (4) (d) or (5) of the statutes, as created by this act.

21 2. Notwithstanding the treatment of sections 880.03 and 880.12 of the statutes  
22 by this act, except as provided in subsection (NO TAG), all guardianships of the  
23 estate appointed under section 880.03, 2003 stats., in effect on the effective date of  
24 this subsection, remain in effect until modified by court order under section 54.64 (2)  
25 of the statutes, as affected by this act, terminated by court order under section 54.64

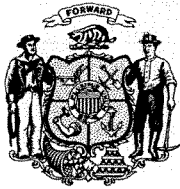
1 (4) of the statutes, as affected by this act, or removed by court order under section  
2 54.68 (4) (d) or (5) of the statutes, as created by this act.

3 (b) Notwithstanding the treatment of sections 880.295 and 880.33 (4) of the  
4 statutes, by this act, except as provided in subsection (NO TAG), all guardianships  
5 appointed under section 880.295 or 880.33 (4), 2003 stats., in effect on the effective  
6 date of this subsection, remain in effect until modified by court order under section  
7 54.64 (2) of the statutes, as affected by this act, terminated by court order under  
8 section 54.64 (3) or (4) of the statutes, as affected by this act, or removed by court  
9 order under section 54.68 (4) (d) or (5) of the statutes, as created by this act.

10 (5) TRANSITION; GUARDIANSHIP REVIEW AND REMOVAL.

11 (a) Notwithstanding the treatment of section 880.16 and 880.192 of the  
12 statutes by this act, all actions for removal of a guardian under section 880.16, 2003  
13 stats., in effect on the effective date of this subsection, remain in effect until  
14 determined by the court under that section, and all actions for review of an account  
15 or removal of a guardian under section 880.192, 2003 stats., in effect on the effective  
16 date of this subsection, remain in effect until determined by the court under that  
17 section.

18 (b) Notwithstanding the treatment of sections 880.251 and 880.34 (3) of the  
19 statutes by this act, all actions for removal of a guardian under section 880.251, 2003  
20 stats., in effect on the effective date of this subsection remain in effect until the court  
21 issues an order of removal or dismisses the action, and all actions under section  
22 880.34 (3), 2003 stats., for discharge of a guardian or limitation of a guardianship in  
23 effect on the effective date of this subsection remain in effect until determined by the  
24 court under that subsection.



State of Wisconsin  
2005-2006 LEGISLATURE

**CORRECTIONS IN:**

**SENATE SUBSTITUTE AMENDMENT 1,  
TO 2005 SENATE BILL 391**

Prepared by the Legislative Reference Bureau  
(May 9, 2006)

1. Page 226, line 13: delete "~~decision~~" and substitute "decision".
2. Page 226, line 14: delete "interests." and substitute "interests".
3. Page 226, line 15: delete "(1m)" and substitute "(1m)".
4. Page 259, line 15: delete "(NO TAG)" and substitute "(5)".
5. Page 259, line 22: delete "(NO TAG)" and substitute "(5)".
6. Page 260, line 4: delete "(NO TAG)" and substitute "(5)".

(END)